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March 22, 2004

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Meeting in WC Docket Nos. 04-36; 03-211; 03-251; CC
Docket Nos. 02-33; 97-213; 96-45; 94-102; DA No. 04-700**

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission Rules, this letter serves to provide notice in the above-captioned proceedings of an *ex parte* meeting occurring on March 19, 2004, in which the undersigned, Mr. Jeffrey Citron, Chairman and CEO of Vonage Holdings Corp. ("Vonage") and Ms. Brooke Schulz, also of Vonage, met with Commissioner Kevin J. Martin and his Senior Legal Advisor, Daniel Gonzalez. During the meeting, Mr. Citron expressed the Company's views on a number of matters of concern regarding Voice Over Internet Protocol ("VoIP").

Mr. Citron first stated that he believed there was broad industry consensus and strong legal support for a finding that VoIP applications that touch the PSTN are interstate in nature. Mr. Citron highlighted recent activity concerning VoIP before the California Public Utilities Commission and identified an increasing number of state PUC proceedings regarding VoIP regulation. He urged the FCC to rule on the interstate character of the service as quickly as possible. He stressed that resolution this narrow issue could be made prior to a resolution of the broader matters under consideration in the VoIP NPRM.

Mr. Citron voiced his concerns over the DSL tying arrangements at issue in BellSouth's Request for Declaratory Ruling. Mr. Citron reiterated points made in Vonage's comments before the FCC. He noted that DSL tying not only limits consumer choice in the market for voice communications, but also makes broadband more expensive and less attractive to American consumers since persons who wish to purchase *only* broadband from their LEC are forced to subscribe and to also incur charges for the incumbent's circuit switched telephony offering. Mr.

Citron noted that such practices would only further impede the Nation's consumer broadband adoption rates – rates that are beginning to lag behind other less developed nations.

In addressing the FCC's NPRM concerning IP-enabled services, Mr. Citron noted that he currently believed a layered approach to regulation was likely the most appropriate framework. In finding Vonage to be an information service under Federal law, the court in *Vonage Holdings Corporation v. Minnesota Public Utilities Commission* acknowledges this paradigm and cites the FCC as having "recognized that the architecture of information services would be built on top of existing telecommunications services infrastructure, but, in terms of regulation, would still remain separate for strong policy purposes." Quoting the FCC, the Court in the *Vonage* decision noted that the FCC chose to "[l]imit[] carrier regulation to those companies that provide the underlying transport ensur[ing] that regulation is minimized and is targeted to markets where full competition has not emerged. As an empirical matter, the level of competition, innovation, investment, and growth in the enhanced services industry over the past two decades provides a strong endorsement for such an approach."

Concerning CALEA, Mr. Citron noted that, without exception, Vonage has complied with all subpoena requests from law enforcement, including providing call logs, records, and other account information. Vonage has met directly with the FBI and is engaged in coordinating technical discussions. The Company also believes it can generally comply with call intercept requests if they were to be made. Mr. Citron stated that Vonage does not believe it is necessary or appropriate for the FCC to classify its services as a "telecommunications service" under Title II of the Act in order to meet law enforcement needs.

In addressing Universal Service matters, Mr. Citron noted that Vonage contributes to the USF on an indirect basis. Although Mr. Citron believes that the FCC has significant flexibility to alter the manner in which VoIP providers are assessed USF, he noted that this can be done without characterizing VoIP as a Title II telecommunications service.

Mr. Citron highlighted Vonage's ongoing efforts to improve VoIP 911 functionality including the Company's participation in the recent FCC sponsored Solution Summit. Mr. Citron noted that Vonage is testing a Phase II solution in several locations throughout the country and pointed to the efforts of the FCC, Vonage and NENA to resolve and improve the technical functionality of emergency services provided in a VoIP environment.

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Should you have any questions concerning this filing, please do not hesitate to contact the undersigned.

Sincerely,

William B. Wilhelm, Jr.

cc: Kevin J. Martin, Commissioner
Daniel Gonzalez – Senior Legal Advisor

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